

NO. 26190

IN THE SUPREME COURT OF THE STATE OF HAWAII

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VERIZON HAWAII INC., Petitioner

vs.

THE HONORABLE JOSEPH CARDOZA, Judge of the Second Circuit Court,  
BRENDAN BALTHAZAR and MICHAEL R. SAVONA, M.D., Respondents

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ORIGINAL PROCEEDING

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of Verizon Hawaii, Inc.'s petition for a writ of mandamus, the papers in support, and the records and files herein, it appears that: (1) Petitioner seeks a writ of mandamus directing the respondent judge to: (a) vacate the August 21, 2003 order denying Petitioner's motion to dismiss complaint filed in Balthazar v. Verizon Hawaii, Inc., Civil No. 03-1-0139, presently pending in the Circuit Court of the Second Circuit, and (b) dismiss the complaint or stay the lawsuit; (2) Petitioner fails to demonstrate that it is entitled to a writ of mandamus. See State v. Hamili, 87 Hawai'i 102, 104, 952 P.2d 390, 392 (1998) (a writ of mandamus will not issue unless the petitioner demonstrate a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action). Therefore,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied without prejudice to any remedy Petitioner may

have in the pending circuit court case and without prejudice to any remedy Petitioner may have by way of appeal from any adverse judgment.

DATED: Honolulu, Hawai'i, December 3, 2003.

Jeffrey S. Portnoy and  
Kaiulani E.S. Kidani  
for petitioner on  
the writ